

Short Title: Revised Uniform Athlete Agents Act.

A BILL TO BE ENTITLED

AN ACT TO ENACT THE REVISED UNIFORM ATHLETE AGENTS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 78C of the General Statutes is repealed.

SECTION 2. Chapter 78C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10.

"REVISED UNIFORM ATHLETE AGENTS ACT.

§ 78C-111. Short title.

This Article may be cited as the Revised Uniform Athlete Agents ~~Act (2015).~~ Act.

§ 78C-112. Definitions.¹

~~In this {act}:~~ The following definitions apply in this Article:

- (1) Agency contract. – An agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the **student athlete** a professional-sports-services contract or endorsement contract.

Staff Note: Subdivision (1) is comparable to G.S. 78C-86(1).

- (2) ~~"Athlete agent":~~ Athlete agent. –

- a. ~~means an~~ An individual, whether or not registered under this Article, ~~who:~~ who does any of the following:

1. Directly or indirectly recruits or solicits a student athlete to

¹ Staff Note: The designators "a.," "1.," and "I." are substituted for the uniform act's designators "(A)," "(i)," and "(I)" in this section and throughout the draft to conform to the numbering system used in the General Statutes. Other style changes include capitalizing the first word in a tabular list, capitalizing "state" when referring to North Carolina, and adding "of this section" after subsection and subdivision references.

enter into an agency contract or, for compensation,
procures employment or offers, promises, attempts, or
negotiates to obtain employment for a student athlete as a
professional athlete or member of a professional sports
team or ~~organization;~~ organization.

2. For compensation or in anticipation of compensation
related to a student athlete's participation in ~~athletics:~~
athletics, does any of the following:

I. Serves the student athlete in an advisory capacity on
a matter related to finances, business pursuits, or
career management decisions, unless the individual
is an employee of an educational institution acting
exclusively as an employee of the institution for the
benefit of the ~~institution;~~ or institution.

II. Manages the business affairs of the student athlete
by providing assistance with bills, payments,
contracts, or ~~taxes;~~ or taxes.

3. In anticipation of representing a student athlete for a
purpose related to the student athlete's participation in
~~athletics:~~ athletics, does any of the following:

I. Gives consideration to the student athlete or another
~~person;~~ person.

II. Serves the student athlete in an advisory capacity on

a matter related to finances, business pursuits, or
career management ~~decisions; or~~ decisions.

III. Manages the business affairs of the student athlete
by providing assistance with bills, payments,
contracts, or ~~taxes; but~~ taxes.

Staff Note: Sub-subdivision (2)a. continues to include in the definition of "athlete agent" an individual who, as described in sub-sub-subdivision (2)a.1., directly or indirectly recruits or solicits a student athlete to enter into an agency contract but expands the definition to include an individual who for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization. Also, sub-subdivision (2)a. expands the definition of "athlete agent" to include the individuals described in sub-sub-subdivisions (2)a.2. and (2)a.3.

b. ~~Does~~ The term "athlete agent" does not include an individual ~~who:~~
who does any of the following:

1. Acts solely on behalf of a professional sports team or
~~organization; or~~ organization.

2. Is a licensed, registered, or certified professional and offers
or provides services to a student athlete customarily
provided by members of the profession, unless the
~~individual;~~ individual does any of the following:

I. Also recruits or solicits the student athlete to enter
into an agency ~~contract;~~ contract.

II. Also, for compensation, procures employment or
offers, promises, attempts, or negotiates to obtain
employment for the student athlete as a professional
athlete or member of a professional sports team or

~~organization;~~ or organization.

III. Receives consideration for providing the services
calculated using a different method than for an
individual who is not a student athlete.

Staff Note: Sub-subdivision (2)b. continues to exclude from the definition of "athlete agent" an individual who acts solely on behalf of a professional sports team or organization but eliminates the exclusion for an individual who is a spouse, parent, sibling, or guardian of the student athlete. However, sub-subdivision (2)b. adds an exclusion for the individual described in sub-subdivision (2)b.2., i.e., a "licensed, registered, or certified professional" as defined in subdivision (11) of this section.

(3) Athletic director. – The individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

Staff Note: Subdivision (3) is comparable to G.S. 78C-86(3).

~~{(4) Commission. — The Commission on Interstate Registration of Athlete Agents.}~~

~~{(5) Compact. — The Interstate Compact for Registration of Athlete Agents.}~~

Staff Note: Bracketed subdivisions (4) and (5) are necessary only if a state adopts Alternative B, creating a central registration agency to be known as the Commission on Interstate Registration of Athlete Agents.

(6) Educational institution. – Includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

Staff Note: Subdivision (6) is new. It is added to make clear that the Article is intended to apply to all educational institutions, whether public or private, and all levels of education.

- (7) Endorsement contract. – An agreement under which ~~a student~~ an athlete is employed or receives consideration to use on behalf of the other party any value that the athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

Staff Note: Subdivision (7) is comparable to G.S. 78C-86(5). The term "endorsement contract" is used only in subdivision (1), which defines "agency contract."

- (8) Enrolled. – Registered for courses and attending athletic practice or class. "Enrolls" has a corresponding meaning.

Staff Note: Subdivision (8) is new.

- (9) Intercollegiate sport. – A sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

Staff Note: Subdivision (9) is comparable to G.S. 78C-86(6).

- (10) Interscholastic sport. – A sport played between educational institutions that are not community colleges, colleges, or universities.

Staff Note: Subdivision (10) is new. The term "interscholastic sport" is used in the definition of "student athlete" in subdivision (19) of this section and in § 78C-126(a)(1).

- (11) Licensed, registered, or certified professional. – An individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by ~~the state~~ State or a nationally recognized organization that licenses, registers, or certifies members of the

profession on the basis of experience, education, or testing.

Staff Note: Subdivision (11) is new. The term "licensed, registered, or certified professional" is used in the definition of "athlete agent" in subdivision (2) of this section.

(12) Person. – An individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, ~~or instrumentality, or other legal entity.~~ instrumentality, business trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.

Staff Note: Subdivision (12) is modified to be consistent with the definition of "person" used in recent uniform acts considered by the General Statutes Commission. Also, subdivision (12) is different from the definition of "person" in G.S. 78C-86(7).

(13) Professional-sports-services contract. – An agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

Staff Note: Subdivision (13) is comparable to G.S. 78C-86(8).

(14) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Staff Note: Subdivision (14) is comparable to G.S. 78C-86(9).

(15) Recruit or solicit. – Attempt to influence the choice of an athlete agent by a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete. The term does not include giving advice on the selection of a particular athlete agent in a ~~family, coaching, or social~~ family or coaching situation unless the individual giving the advice does

so because of the receipt or anticipated receipt of an economic benefit,
directly or indirectly, from the **athlete agent**.

Staff Note: Subdivision (15) is new. "Recruit or solicit" is used in the definition of "athlete agent" in subdivision (2) of this section and in G.S. 78C-86(2). The definition of "recruit or solicit" excludes giving advice on the selection of a particular athlete agent in a family, coaching, or social situation unless the advice is given because of the receipt or anticipated receipt of compensation from the agent. However, G.S. 78C-86(2) expressly excludes from the definition of "athlete agent" a spouse, parent, sibling, or guardian of a student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(16) Registration. – Registration as an athlete agent under this Article.

Staff Note: The definition of "registration" in subdivision (16) differs from the definition of "registration" in G.S. 78C-86(10) in order to accommodate the alternative registration approaches.

(17) ~~"Sign" means, with~~ Sign. – With present intent to authenticate or adopt a
~~record;~~ record, to do any of the following:

- a. ~~to execute~~ Execute or adopt a tangible ~~symbol; or symbol.~~
- b. ~~to attach~~ Attach to or logically associate with the record an
electronic symbol, sound, or process.

Staff Note: Subdivision (17) is new.

(18) State. – A state of the United States, the District of Columbia, Puerto Rico,
the United States Virgin Islands, or any territory or insular possession
subject to the jurisdiction of the United States.

Staff Note: Subdivision (18) is new.

(19) Student athlete. – An individual who is eligible to attend an educational
institution and engages in, is eligible to engage in, or may be eligible in
the future to engage in, any interscholastic or intercollegiate sport. The
term does not include an individual permanently ineligible to participate in

a particular interscholastic or intercollegiate sport for that sport.

Staff Note: Subdivision (19) is similar to G.S. 78C-86(11) but includes the reference to "interscholastic sport." The term is defined in subdivision (10) of the section to mean "a sport played between educational institutions that are not community colleges, colleges, or universities."

~~*Uniform Law Commission Legislative Note: The definitions of "commission" and "compact" are bracketed to reflect alternatives for registration. See the Legislative Note for Alternative A preceding Section 5 [§ 78C-115].*~~

"§ 78C-113. [Secretary of State] [Commission]; authority; procedure.

Alternative A

(a) ~~The [administrative procedure act]~~ Chapter 150B of the General Statutes applies to this Article. The Secretary of State may adopt rules under ~~the [administrative procedure act]~~ Chapter 150B of the General Statutes to implement this Article.

Staff Note: This alternative subsection (a) reflects the state registration option and is consistent with G.S. 78C-105 which authorizes the Secretary of State to adopt rules in accordance with Chapter 150B of the General Statutes, the "Administrative Procedure Act."

Alternative B

~~(a) Except as otherwise provided in this Article, the Commission is an agency of the state in which the headquarters of the Commission is located and the law of that state, including the law relating to administrative procedure, public records, and public meetings, applies to the Commission. The Commission may adopt rules under the [administrative procedure act] of the state in which its headquarters is located to implement this Article.~~

Staff Note: This alternative subsection (a) reflects the interstate compact registration option.

End of Alternatives

(b) By acting as an athlete agent in this State, a nonresident individual appoints the [Secretary of State] [Commission] as the individual's agent for service of process in any civil

action in this State related to the individual acting as an athlete agent in this State.

Staff Note: Other than the inclusion of bracketed language to accommodate the alternative registration options, subsection (b) is comparable to G.S. 78C-87(a).

(c) The [Secretary of State] [Commission] may issue a subpoena for material that is relevant to the administration of this Article.]

Staff Note: Subsection (c) is comparable to G.S. 78C-87(b).

Uniform Law Commission Legislative Note: There are two alternatives for subsection (a) to reflect the registration option discussed in the Legislative Note for Alternative A preceding Section 5 [§ 78C-115].

If the administrative procedure act of a state does not give administrative agencies the power to issue a cease and desist order or otherwise prevent continued conduct in violation of the act, the state should consider specifically granting the power to the agency designated as the enforcement agency.

The Secretary of State has been designated as the administrator of existing acts regulating the activities of athlete agents more frequently than any other office. It is recognized, however, that the appropriate state office to administer this act may vary from state to state and, therefore, references to the Secretary of State are in brackets.

Subsection (c) is in brackets because it may not be required under the administrative procedure acts of some states.

"§ 78C-114. Athlete agent; registration required; void contract.

(a) Except as otherwise provided in subsection (b) of this section, an individual ~~may~~ **shall not** act as an athlete agent in this State without holding a certificate of registration under this Article.

Staff Note: Subsection (a) is similar to G.S. 78C-88(a) except that G.S. 78C-88(a) uses "[e]xcept as otherwise provided in this section" to take into account subsection (b)'s safe harbor for an unregistered individual with whom a student athlete initiates communications and subsection (c)'s specific exception from registration requirements for a North Carolina licensed and resident attorney acting as an athlete agent.

(b) Before being issued a certificate of registration under this Article, an individual may act as an athlete agent in this State for all purposes except signing an agency contract, ~~if~~ **if**

all of the following occur:

- (1) A student athlete or another person acting on behalf of the **student athlete** initiates communication with the ~~individual; and individual.~~
- (2) Not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in **this state.State.**

Staff Note: Subsection (b) is comparable to G.S. 78C-88(b).

- (c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the **agency contract.**

Staff Note: Subsection (c) is comparable to G.S. 78C-88(d).

G.S. 78C-88(c) is a non-uniform provision that provides a specific exception from registration requirements for a "North Carolina licensed and resident attorney" acting as an athlete agent "if the attorney neither advertises directly for, nor solicits, any student-athlete by representing to any person that the attorney has special experience or qualifications with regard to representing student-athletes and represents no more than two student-athletes." In this draft, attorneys licensed by this State are covered by the definition of "licensed, registered, or certified professional" in § 78C-112(11) and the exclusion for "licensed, registered, or certified professional" in the definition of "athlete agent" in § 78C-112(2)b.

~~Alternative A for Sections 5 through 9 [§§ 78C-115 through 78C-119] (Enacting State Registration System)~~

~~*Uniform Law Commission Legislative Note: There are two alternatives for Sections 5 through 9 [§§ 78C-115 through 78C-119]. Alternative A establishes a registration system in the enacting state which requires the enacting state to register an individual who is registered in another state if the enacting state determines the law of the other state is substantially similar to or more restrictive than the law of the enacting state, the registration in the other state has not been revoked or suspended, and no action involving the agent's conduct as an agent is pending.*~~

~~*Alternative B creates a central registration agency, the Commission on Interstate Registration of Athlete Agents, and provides that states enacting Alternative B will be entering into an interstate compact with other states that enact it.*~~

~~*While the numbering of the sections in the two alternatives is different because Section 5 [§ 78C-115] of Alternative B creates the commission and the contents of Section 9 [§ 78C-119] are folded into Section 5 [§ 78C-115], the substantive requirements for the initial registration and*~~

~~the basis for denial of registration or the suspension, revocation, or failure to renew registration are identical in both alternatives. Thus, the effect of Alternative B in a state adopting the compact is to delegate the responsibility for the registration of athlete agents and the civil enforcement of the act to a central entity created by the compact. A state adopting Alternative B also will have to amend Section 2 [§ 78C-112] to include the definition of commission for the new central registration agency and the definition of “compact” for the interstate compact, select Alternative B for Section 3(a) [§ 78C-113(a)], add bracketed Section 18 [§ 78C-128] containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17 [§ 78C-127], and make additional conforming changes in Section 4 [§ 78C-114]. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.~~

**"§ 78C-115. Registration as athlete agent; application; ~~requirements; reciprocal~~
~~registration requirements.~~**

(a) An applicant for registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) The name and date and place of birth of the applicant and the following contact information for the applicant:

a. The address of the applicant's principal place of ~~business;~~
business.

a1. The applicant's home address.

b. Work and mobile telephone ~~numbers; and~~ numbers.

c. Any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer ~~websites; websites.~~

Staff Note: Subdivision (a)(1) expands G.S. 78C-89(a)(1) to require an application for registration as an athlete agent to contain not just the applicant's name and address of principal place of business but also the applicant's date and place of birth, work and mobile telephone numbers, and electronic mail addresses and social media accounts.

- (2) The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the ~~business;~~ business.

Staff Note: Subdivision (a)(2) expands G.S. 78C-89(a)(2) to require an application to contain not just the name of the applicant's business or employer but also the business or employer's mailing address, telephone number, organization form, and nature of business.

- (3) Each social-media account with which the applicant or the applicant's business or employer is ~~affiliated;~~ affiliated.

Staff Note: Subdivision (a)(3) is new.

- (4) Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that ~~time;~~ time.

Staff Note: Subdivision (a)(4) is comparable to G.S. 78C-89(a)(3) but expands it by adding the "including" language.

- (5) A description of the applicant's:
- a. Formal training as an athlete ~~agent;~~ agent.
 - b. Practical experience as an athlete ~~agent; and agent~~ in detail.
 - c. Educational background relating to the applicant's activities as an athlete ~~agent;~~ agent.

Staff Note: Subdivision (a)(5) is comparable to G.S. 78C-89(a)(4).

- (6) The name of each [student] athlete for whom the applicant acted as an

athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the [student] athlete's sport and last-known ~~team;~~ team.

Staff Note: Subdivision (a)(6) is comparable to G.S. 78C-89(a)(6) but expands it by adding the language "or, if the individual is a minor, the name of the parent or guardian of the minor."

(6a) The name of each [student] athlete who terminated a contract or other professional agreement with the applicant or the applicant's then-employing organization within five years before the date of the application.

(6b) The name of each [student] athlete whose contract or professional agreement with the applicant or the applicant's then-employing organization was terminated by the applicant or the applicant's then-employing organization within five years before the date of the application.

(7) The name and address of each person ~~that:~~ to which any of the following apply:

a. Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or greater of the athlete agent's business if it is not a ~~corporation;~~ and corporation.

b. Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or greater in the ~~corporation;~~ corporation.

Staff Note: Subdivision (a)(7) is comparable to G.S. 78C-89(a)(7) but is phrased differently.

1 Also, in sub-subdivision (a)(7)a., the language "directly or indirectly holds an equity interest of
2 five percent (5%) or greater" is new.

3
4 (8) A description of the status of any application by the applicant, or any
5 person named under subdivision (7) of this subsection, for a state or
6 federal business, professional, or occupational license, other than as an
7 athlete agent, from a state or federal agency, including any denial, refusal
8 to renew, suspension, withdrawal, or termination of the license and any
9 reprimand or censure related to the ~~license;~~ license.

10 **Staff Note:** Subdivision (a)(8) is comparable to G.S. 78C-89(a)(12) but is phrased differently.

11
12 (9) Whether the applicant, or any person named under subdivision (7) of this
13 subsection, has pleaded guilty or no contest to, has been convicted of, or
14 has charges pending for, a crime that would involve moral turpitude or be
15 a felony if committed in this State and, if so, identification ~~of:~~ of all the
16 following:

- 17 a. The ~~crime;~~ crime.
18 b. The law-enforcement agency ~~involved; and~~ involved.
19 c. If applicable, the date of the conviction and the fine or penalty
20 ~~imposed;~~ imposed.

21 **Staff Note:** Subdivision (a)(9) is comparable to G.S. 78C-89(a)(8) but expands it to require
22 more information about the crime.

23
24 (10) Whether, within 15 years before the date of application, the applicant, or
25 any person named under subdivision (7) of this subsection, has been a
26 defendant or respondent in a civil proceeding, including a proceeding
27 seeking an adjudication of ~~legal incompetence~~ incompetence and, if so,

the date and a full explanation of each ~~proceeding~~; proceeding.

Staff Note: Subdivision (a)(10) is new.

(11) Whether the applicant, or any person named under subdivision (7) of this subsection, has an unsatisfied judgment or a judgment of continuing effect, including ~~alimony~~ or a domestic order in the nature of child support, which is not current at the date of the ~~application~~; application.

Staff Note: Subdivision (a)(11) is new.

(12) Whether, within 10 years before the date of application, the applicant, or any person named under subdivision (7) of this subsection, ~~was adjudicated bankrupt~~ has filed a petition in bankruptcy or was an owner of a business that ~~was adjudicated bankrupt~~ has filed a petition in bankruptcy.

Staff Note: Subdivision (a)(12) is new.

(13) Whether there has been any administrative or judicial determination that the applicant, or any person named under subdivision (7) of this subsection, made a false, misleading, deceptive, or fraudulent ~~representation~~; representation.

Staff Note: Subdivision (a)(13) is comparable to G.S. 78C-89(a)(9).

(14) Each instance in which conduct of the applicant, or any person named under subdivision (7) of this subsection, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational ~~institution~~; institution.

Staff Note: Subdivision (a)(14) is comparable to G.S. 78C-89(a)(10) but expands it to add the language "or professional athletic event" and "a sanction on an."

(15) Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under subdivision (7) of this subsection, arising out of occupational or professional ~~conduct;~~ conduct.

Staff Note: Subdivision (a)(15) is comparable to G.S. 78C-89(a)(11).

(16) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration or licensure of the applicant, or any person named under subdivision (7) of this subsection, as an athlete agent in any ~~state;~~ state.

Staff Note: Subdivision (a)(16) is comparable to G.S. 78C-89(a)(12) but expands it to add the language "or abandonment of" and changes it to omit the language "or licensure" from the phrase "the registration or licensure of the applicant."

(17) Each state in which the applicant currently is registered or licensed as an athlete agent or has applied to be registered or licensed as an athlete ~~agent;~~ agent.

Staff Note: Subdivision (a)(17) is new.

(18) If the applicant is certified or registered by a professional league or players ~~association;~~ association, all of the following:

- a. The name of the league or ~~association;~~ association.
- b. The date of certification or registration, and the date of expiration of the certification or registration, ~~if any; and if any.~~
- c. If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or

censure related to the certification or ~~registration; and~~ registration.

Staff Note: Subdivision (a)(18) is new.

(19) Any additional information required by the Secretary of State.

Staff Note: Subdivision (a)(19) is new.

~~(b) — Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the [Secretary of State]:~~

~~(1) — A copy of the application for registration in the other state;~~

~~(2) — A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and~~

~~(3) — A copy of the certificate of registration from the other state.~~

Staff Note: Subsections (b) and (c) of this section, like G.S. 78C-89(b), provide for reciprocal registration of athlete agents. Under subsections (b) and (c), if an individual registered in another state applies for registration in this State, the Secretary of State is required to grant the registration if the Secretary of State determines that the law in the other state is substantially similar to or more restrictive than the law in this State, the registration is in good standing, and no proceeding involving the individual's conduct as an athlete agent is pending in any state in which the individual is registered. Note that, under G.S. 78C-89(b), the application for registration in the other state must have been submitted in the other state within six months immediately preceding the submission of the application in this State.

~~(c) — The [Secretary of State] shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the [Secretary of State] determines:~~

~~(1) — The application and registration requirements of the other state are substantially similar to or more restrictive than this [act] and~~

~~(2) — The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against~~

~~the individual or the individual's registration in any state.~~

Staff Note: See staff note under subsection (c). Subdivision (c)(2) has no counterpart in G.S. 78C-89(b).

~~(d) For purposes of implementing subsection (c), the [Secretary of State] shall:~~

~~(1) Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this [act]; and~~

~~(2) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.~~

Staff Note: Subsection (d) is new.

(e) An application filed under this section is a "public record" within the meaning of Chapter 132 of the General Statutes.

Staff Note re G.S. 78C-89(c): G.S. 78C-89(c) provides that "[a]n application filed under this section is a "public record" within the meaning of Chapter 132 of the General Statutes." There is no comparable provision in Section 5 of the Revised Uniform Athlete Agents Act (2015) [§ 78C-115 of this draft]. The Official Comment to Section 5 of the Uniform Act indicates that the 2000 Uniform Athlete Agents Act "contained bracketed language that an application filed under the act was a public record. The intention of the [Uniform Law Commission's drafting committee] was not to rewrite the public record law of any state, but to default to that law, whatever it is. Thus, in some states, certain information on the application, such as a trade secret, may not be a public record, while the public record law in another state may require a different result."

"§ 78C-116. Certificate of registration; issuance or denial; renewal.

(a) Except as otherwise provided in subsection (b) of this section, the Secretary of State shall issue a certificate of registration to an applicant for registration who complies with G.S. 78C-115(a).

Staff Note: Subsection (a) is comparable to G.S. 78C-90(a) but uses "applicant for registration" instead of "individual" and omits "or whose application has been accepted under G.S. 78C-89(b)."

(b) The Secretary of State may refuse to issue a certificate of registration to an applicant for registration under G.S. 78C-115(a) if the Secretary of State determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary of State may consider whether the applicant ~~has:~~ has done any of the following:

- (1) Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this ~~state;~~ State.
- (2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete ~~agent;~~ agent.
- (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary ~~capacity;~~ capacity.
- (4) Engaged in conduct prohibited by ~~Section 14;~~ G.S. 78C-114.
- (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied in any ~~state;~~ state.
- (6) Been refused renewal of registration or licensure as an athlete agent in any ~~state;~~ state.
- (7) Engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational ~~institution;~~ or institution.

- (8) Engaged in conduct that adversely reflects on the applicant's credibility,
honesty, or integrity.

Staff Note: Subsection (b) is comparable to G.S. 78C-90(b).

(c) In making a determination under subsection (b) of this section, the Secretary of
State shall ~~consider:~~ consider all of the following:

(1) How recently the conduct ~~occurred;~~ occurred.

(2) The nature of the conduct and the context in which it ~~occurred; and~~
occurred.

(3) Other relevant conduct of the applicant.

Staff Note: Subsection (c) is comparable to G.S. 78C-90(c).

(d) An athlete agent registered under subsection (a) of this section may apply to
renew the registration by submitting an application for renewal in a form prescribed by the
Secretary of State. The applicant shall sign the application for renewal under penalty of perjury
and include current information on all matters required in an original application for registration.

Staff Note: Subsection (d) is comparable to G.S. 78C-90(d).

~~(e) An athlete agent registered under Section 5(e) may renew the registration by
proceeding under subsection (d) or, if the registration in the other state has been renewed, by
submitting to the [Secretary of State] copies of the application for renewal in the other state and
the renewed registration from the other state. The [Secretary of State] shall renew the
registration if the [Secretary of State] determines:~~

~~(1) The registration requirements of the other state are substantially similar to
or more restrictive than this [act]; and~~

~~(2) The renewed registration has not been suspended or revoked and no action~~

1 ~~involving the individual's conduct as an athlete agent is pending against~~

2 ~~the individual or the individual's registration in any state.~~

3 *Staff Note:* Subsection (e) is comparable to G.S. 78C-90(e). However, the Official Comment to
4 Section 6 of the Revised Uniform Athlete Agents Act (2015) [§ 78C-116] indicates that Section 6
5 [§ 78C-116] "has been revised to reflect the true reciprocal registration provisions of Section 5
6 [§ 78C-115].

7
8 (f) A certificate of registration or renewal of registration under this Article is valid
9 for ~~{two} years.~~ one year.

10 (g) An application filed under this section is a "public record" within the meaning of

11 Chapter 132 of the General Statutes.

12 *Staff Note:* Subsection (f) is comparable to G.S. 78C-90(f). However, G.S. 78C-90(f) provides
13 for a validation period of one year rather than the bracketed two years.

14
15 **"§ 78C-117. Suspension, revocation, or refusal to renew registration.**

16 (a) The Secretary of State may limit, suspend, revoke, or refuse to renew a
17 registration of an individual registered under G.S. 78C-116(a) for conduct that would have
18 justified refusal to issue a certificate of registration under G.S. 78C-116(b).

19 (b) ~~The [Secretary of State] may suspend or revoke the registration of an individual~~
20 ~~registered under Section 5(e) or renewed under Section 6(e) for any reason for which the~~
21 ~~[Secretary of State] could have refused to grant or renew registration or for conduct that would~~
22 ~~justify refusal to issue a certificate of registration under Section 6(b).~~

23 *Staff Note:* § 78C-117 is similar to G.S. 78C-91 but reflects the reciprocal registration
24 provisions of §§ 78C-115 and 78C-116. However, § 78C-117 has no counterpart to G.S. 78C-
25 91(b), which provides that the Secretary of State may deny, suspend, revoke, or renew a
26 registration "only after proper notice and an opportunity for a hearing in accordance with the
27 Administrative Procedures Act pursuant to Article 3 of Chapter 150B of the General Statutes."
28 However, § 78C-113(a) expressly provides that "Chapter 150B of the General Statutes applies to
29 this Article."
30

"§ 78C-118. Temporary registration.

The Secretary of State may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

Staff Note: § 78C-118 is comparable to G.S. 78C-92.

"§ 78C-119. Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

(1) ~~[\$] for an initial application for registration;~~ Initial application for registration \$200.00

~~(2) [\$] for registration based on a certificate of registration issued by another state;~~

~~(3)(2) [\$] for an application for renewal of registration; or~~ Application for renewal of registration \$200.00

~~(4) [\$] for renewal of registration based on a renewal of registration in another state.~~

Staff Note: § 78C-119 is comparable to G.S. 78C-93 in setting the fees for registration and renewal of registration. The bracketed fee amounts are the current amounts set out in G.S. 78C-93.

**~~Alternative B for Sections 5 through 9 [§§ 78C-115 through 78C-119]
(Interstate Compact Registry)~~**

~~*Uniform Law Commission Legislative Note:* As discussed in the Legislative Note for Alternative A, a state adopting Alternative B also will have to amend Section 2 [§ 78C-112] to include the definition of commission for the new central registration agency and the definition of "compact" for the interstate compact, select Alternative B for Section 3(a) [§ 78C-113(a)], add bracketed Section 18 [§ 78C-128] containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17 [§ 78C-1287], and make additional conforming changes in Section 4 [§ 78C-114]. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective~~

~~may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.~~

~~**"78C-115. Commission on Interstate Registration of Athlete Agents.**~~

~~(a) The Commission on Interstate Registration of Athlete Agents is created. The Commission is a body corporate and joint agency of the states that enact an act substantially similar to this Article. The Commission consists of one member from each state that enacts such an act appointed by the governor of that state.~~

~~(b) The first meeting of the Commission must be held not later than 90 days after the fifth state enacts an act substantively similar to this Article. A majority of the states that enact such an act constitutes a quorum for the conduct of business.~~

~~(c) At its first meeting, the Commission shall adopt bylaws that provide for:~~

- ~~(1) An executive committee to manage day-to-day affairs of the Commission.~~
- ~~(2) The operation of the Commission, including employment of necessary staff;~~
- ~~(3) Maintaining a location for the registration of athlete agents in the states that enact an act substantially similar to this [act];~~
- ~~(4) Establishing the registration fee and the apportionment of the fee among the states that enact an act substantially similar to this [act]; and~~
- ~~(5) Any other matter necessary for efficient operation of the Commission.~~

~~(d) The Commission:~~

- ~~(1) Shall pay or provide for payment of the reasonable expenses of the establishment, organization, and ongoing activities of the Commission.~~
- ~~(2) May accept a grant of money, equipment, supplies, materials, or services~~

and donations;

(3) ~~May assess each member state annually on a basis determined by the Commission to cover operation costs of the Commission not funded by registration fees imposed under subdivision (4) of subsection (e) of this section.~~

(4) ~~May not incur an obligation before securing funds adequate to meet the obligation;~~

(5) ~~May not pledge the credit of a member state, except with the authority of the member state; and~~

(6) ~~Shall keep an accurate account of receipts and disbursements, under audit and accounting procedures established under the Commission's bylaws.~~

(e) ~~The receipt and disbursement of funds by the Commission must be audited yearly by a certified or licensed public accountant, and the Commission shall include the audit report in an annual report of the Commission.~~

Staff Note: This section creates the Commission on Interstate Registration of Athlete Agents and provides for its organization, powers, and duties, including composition, meeting and quorum, bylaws, and other requirements. The existence of the compact is conditioned on at least five states adopting Alternative B in substantially the same form. The membership of the Commission will consist of one member from each state that adopts Alternative B.

~~"§ 78C-116. Registration as athlete agent; application; requirements.~~

~~An applicant for registration as an athlete agent shall submit an application for registration to the Commission in a form prescribed by the Commission. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:~~

(1) ~~The name and date and place of birth of the applicant and the following~~

1 ~~contact information for the applicant:~~

2 ~~a. The address of the applicant's principal place of business;~~

3 ~~b. Work and mobile telephone numbers; and~~

4 ~~c. Any means of communicating electronically, including a facsimile~~
5 ~~number, electronic mail address, and personal and business or~~
6 ~~employer websites;~~

7 ~~(2) The name of the applicant's business or employer, if applicable, including~~
8 ~~for each business or employer, its mailing address, telephone number,~~
9 ~~organization form, and the nature of the business;~~

10 ~~(3) Each social media account with which the applicant or the applicant's~~
11 ~~business or employer is affiliated;~~

12 ~~(4) Each business or occupation in which the applicant engaged within five~~
13 ~~years before the date of the application, including self employment and~~
14 ~~employment by others, and any professional or occupational license,~~
15 ~~registration, or certification held by the applicant during that time;~~

16 ~~(5) A description of the applicant's:~~

17 ~~a. Formal training as an athlete agent;~~

18 ~~b. Practical experience as an athlete agent; and~~

19 ~~c. Educational background relating to the applicant's activities as an~~
20 ~~athlete agent;~~

21 ~~(6) The name of each student athlete for whom the applicant acted as an~~
22 ~~athlete agent within five years before the date of the application or, if the~~
23 ~~athlete is a minor, the name of the parent or guardian of the minor,~~

~~together with the athlete's sport and last known team;~~

~~(7) The name and address of each person that:~~

~~a. Is a partner, member, officer, manager, associate, or profit sharer
or directly or indirectly holds an equity interest of five percent or
greater of the athlete agent's business if it is not a corporation; and~~

~~b. Is an officer or director of a corporation employing the athlete
agent or a shareholder having an interest of five percent or greater
in the corporation;~~

~~(8) A description of the status of any application by the applicant, or any
person named under subdivision (7) of this subsection, for a state or
federal business, professional, or occupational license, other than as an
athlete agent, including any denial, refusal to renew, suspension,
withdrawal, or termination of the license and any reprimand or censure
related to the license;~~

~~(9) Whether the applicant, or any person named under subdivision (7) of this
subsection, has pleaded guilty or no contest to, has been convicted of, or
has charges pending for, a crime involving moral turpitude or which is a
felony and, if so, identify:~~

~~a. The crime;~~

~~b. The law enforcement agency involved; and~~

~~c. If applicable, the date of the conviction and the fine or penalty
imposed;~~

~~(10) Whether, within 15 years before the date of application, the applicant, or~~

1 ~~any person named under subdivision (7) of this subsection, has been a~~
2 ~~defendant or respondent in a civil proceeding, including a proceeding~~
3 ~~seeking an adjudication of legal incompetence, and, if so, the date and a~~
4 ~~full explanation of each proceeding;~~

5 ~~(11) Whether the applicant, or any person named under subdivision (7) of this~~
6 ~~subsection, has an unsatisfied judgment or a judgment of continuing~~
7 ~~effect, including alimony or a domestic order in the nature of child~~
8 ~~support, which is not current at the date of the application;~~

9 ~~(12) Whether, within 10 years before the date of application, the applicant, or~~
10 ~~any person named under subdivision (7) of this subsection, was~~
11 ~~adjudicated bankrupt or was an owner of a business that was adjudicated~~
12 ~~bankrupt;~~

13 ~~(13) Whether there has been any administrative or judicial determination that~~
14 ~~the applicant, or any person named under subdivision (7) of this~~
15 ~~subsection, made a false, misleading, deceptive, or fraudulent~~
16 ~~representation;~~

17 ~~(14) Each instance in which conduct of the applicant, or any person named~~
18 ~~under subdivision (7) of this subsection, resulted in the imposition of a~~
19 ~~sanction, suspension, or declaration of ineligibility to participate in an~~
20 ~~interscholastic, intercollegiate, or professional athletic event on a student~~
21 ~~athlete or a sanction on an educational institution;~~

22 ~~(15) Each sanction, suspension, or disciplinary action taken against the~~
23 ~~applicant, or any person named under subdivision (7) of this subsection,~~

arising out of occupational or professional conduct;

(16) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under subdivision (7) of this subsection, as an athlete agent in any state;

(17) Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(18) If the applicant is certified or registered by a professional league or players association:

a. The name of the league or association;

b. The date of certification or registration, and the date of expiration of the certification or registration, if any; and

c. If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(19) Any additional information required by the Commission.

Staff Note: This section parallels § 78C-115 of Alternative A in setting out the application requirements for registration as an athlete agent.

~~*Uniform Law Commission Legislative Note:* Paragraphs (10) and (11) use the terms “legal incompetence” and “alimony”. If those are not the appropriate terms for a state, the insertion of the state specific terms is not intended to be a deviation from the substantially similar requirement for the adoption of the Interstate Compact.~~

~~**“§ 78C-117. Certificate of registration; issuance or denial; renewal.**~~

(a) Except as otherwise provided in subsection (b) of this section, the Commission

~~shall issue a certificate of registration to an applicant for registration who complies with G.S.
78C-116.~~

~~(b) The Commission may refuse to issue a certificate of registration to an applicant
for registration under G.S. 78C-116 if the Commission determines that the applicant has engaged
in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent.
In making the determination, the Commission may consider whether the applicant has:~~

~~(1) Pleaded guilty or no contest to, has been convicted of, or has charges
pending for, a crime involving moral turpitude or which is a felony;~~

~~(2) Made a materially false, misleading, deceptive, or fraudulent
representation in the application or as an athlete agent;~~

~~(3) Engaged in conduct that would disqualify the applicant from serving in a
fiduciary capacity;~~

~~(4) Engaged in conduct prohibited by G.S. 78C-114.~~

~~(5) Had a registration as an athlete agent suspended, revoked, or denied in any
state;~~

~~(6) Been refused renewal of registration as an athlete agent in any state;~~

~~(7) Engaged in conduct resulting in imposition of a sanction, suspension, or
declaration of ineligibility to participate in an interscholastic,
intercollegiate, or professional athletic event on a student athlete or a
sanction on an educational institution; or~~

~~(8) Engaged in conduct that adversely reflects on the applicant's credibility,
honesty, or integrity.~~

~~(c) In making a determination under subsection (b) of this section, the Commission~~

1 ~~shall consider:~~

2 (1) ~~How recently the conduct occurred;~~

3 (2) ~~The nature of the conduct and the context in which it occurred; and~~

4 (3) ~~Other relevant conduct of the applicant.~~

5 (d) ~~An athlete agent registered under subsection (a) of this section may apply to~~
6 ~~renew the registration by submitting an application for renewal in a form prescribed by the~~
7 ~~Commission. The applicant shall sign the application for renewal under penalty of perjury and~~
8 ~~include current information on all matters required in an original application for registration.~~

9 (e) ~~A certificate of registration or a renewal of registration under this Article is valid~~
10 ~~for [two] years.~~

11 *Staff Note: This section parallels § 78C-116 of Alternative A in authorizing the issuance or*
12 *denial of a certificate of registration or the renewal of registration.*

13
14 ~~**"§ 78C-118. Limitation, suspension, revocation, or refusal to renew registration.**~~

15 ~~The Commission may limit, suspend, revoke, or refuse to renew a registration of an~~
16 ~~individual registered under G.S. 78C-117 for conduct that would have justified refusal to issue a~~
17 ~~certificate of registration under G.S. 78C-117(b).~~

18 *Staff Note: This section parallels § 78C-117(a) of Alternative A in authorizing the Commission*
19 *to limit, suspend, revoke, or refuse to renew a registration.*

20
21 ~~**"§ 78C-119. Temporary registration.**~~

22 ~~The Commission may issue a temporary certificate of registration as an athlete agent~~
23 ~~while an application for registration or renewal of registration is pending.~~

24 *Staff Note: This section parallels § 78C-118 of Alternative A in authorizing the Commission to*
25 *issue a temporary certificate of registration.*

26
27 **End of Alternatives**

"§ 78C-120. Required form of agency contract.

- (a) An agency contract must be in a record signed by the parties.

Staff Note: Subsection (a) is comparable to G.S. 78C-94(a). The term "record" is defined in § 78C-112(14), and the term "sign" is defined in § 78C-112(17).

- (b) An agency contract must ~~contain:~~ contain all of the following:

- (1) A statement that the athlete agent is registered as an athlete agent in this State and a list of any other states in which the athlete agent is registered as an athlete ~~agent;~~ agent.
- (2) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the agency contract and any other consideration the athlete agent has received or will receive from any other source for entering into the agency contract or providing the ~~services;~~ services.
- (3) The name of any person not listed in the athlete agent's application for registration or renewal of registration which will be compensated because the student athlete signed the ~~contract;~~ agency contract.
- (4) A description of any expenses the student athlete agrees to ~~reimburse;~~ reimburse.
- (5) A description of the services to be provided to the ~~athlete;~~ student athlete.
- (6) The duration of the ~~contract; and~~ agency contract.
- (7) The date of execution.

Staff Note: Subdivisions (b)(2) through (b)(7) are comparable to G.S. 78C-94(b)(1) through (b)(6). Subdivision (b)(1) is added to require an agency contract to contain a statement that the athlete agent is registered in the state and a list of any other states in which the agent is registered.

(c) Subject to subsection (g) of this section, an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

~~WARNING TO STUDENT ATHLETE~~ Warning to student athlete

~~IF YOU SIGN THIS CONTRACT:~~ If you sign this contract:

(1) ~~YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
ATHLETE IN YOUR SPORT;~~ You may lose your eligibility to compete as a student
athlete in your sport;

(2) ~~IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC
EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU
AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT
YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND
CONTACT INFORMATION OF THE ATHLETE AGENT; AND~~ If you have an athletic
director, within 72 hours after signing this contract or before the next scheduled athletic
event in which you participate, whichever occurs first, both you and your athlete agent
must notify your athletic director that you have entered into this contract and provide the
name and contact information on the athlete agent;

(3) ~~YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.~~ You may cancel
this contract within 14 days after signing it. Cancellation of this contract may not reinstate
your eligibility as a student athlete in your sport.

Staff Note: Subsection (c) is comparable to G.S. 78C-94(c) but the form is modified in light of the notice requirements of § 78C-121(b) and (c). Also, subsection (c) does not require that the

1 *form notify a student athlete that the athlete waives the athlete's attorney-client privilege with*
2 *respect to the agency contract. In reference to the waiver of attorney-client privilege, § 78C-120*
3 *does not contain a provision comparable to G.S. 78C-94(f), which reads: "The waiver of*
4 *attorney-client privilege does not affect those privileges between client and attorney when the*
5 *attorney is not an athlete agent."*

6
7 (d) An agency contract must be accompanied by a separate record signed by the
8 student athlete or, if the **student athlete** is a minor, the parent or guardian of the athlete
9 acknowledging that signing the **agency contract** may result in the loss of the **student athlete's**
10 eligibility to participate in the **student athlete's** sport.

11 **Staff Note:** Subsection (d) is new.

12
13 (e) A student athlete or, if the **student athlete** is a minor, the parent or guardian of the
14 **student athlete** may void an agency contract that does not conform to this section. If the **agency**
15 **contract** is voided, any consideration received from the athlete agent under the **agency contract** to
16 induce entering into the **agency contract** is not required to be returned.

17 **Staff Note:** Subsection (e) is comparable to G.S. 78C-94(d). However, subsection (e) reflects
18 the rare circumstance of when an agency contract involves a student athlete who is a minor.

19
20 (f) At the time an agency contract is executed, the athlete agent shall give the student
21 athlete or, if the **student athlete** is a minor, the parent or guardian of the **student athlete** a copy in
22 a record of the **agency contract** and the separate acknowledgement required by subsection (d) of
23 this section.

24 **Staff Note:** Subsection (f) is comparable to G.S. 78C-94(e). However, subsection (f) addresses
25 the rare case where an agency contract involves a student athlete who is a minor and adds the
26 requirement that the athlete agent give the separate acknowledgment required by subsection (d)
27 of this section.

28
29 (g) If a student athlete is a minor, an agency contract must be signed by the parent or
30 guardian of the minor and the notice required by subsection (c) of this section must be revised
31 accordingly.

Staff Note: Subsection (g) is new.

"§ 78C-121. Notice to educational institution.

(a) In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

Staff Note: Subsection (a) is new. It defines "communicating or attempting to communicate" for purposes of subsections (f) and (g) of this section.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the **agency contract** to the athletic director of the educational institution at which the **student athlete** is enrolled or at which the agent has reasonable grounds to believe the **student athlete** intends to enroll.

Staff Note: Subsection (b) is comparable to G.S. 78C-95(a). There are stylistic differences.

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the **student athlete** shall inform the athletic director of the educational institution at which the **student athlete** is enrolled that the **student athlete** has entered into an agency contract and the name and contact information of the athlete agent.

Staff Note: Subsection (c) is comparable to G.S. 78C-95(b) in requiring a student athlete to notify an educational institution that the athlete has entered into an agency contract. However, subsection (c) adds the requirement that the notice include the name and contact information of the athlete agent. Also, there are stylistic differences between the two subsections.

(d) If an athlete agent enters into an agency contract with a student athlete and the **student athlete** subsequently enrolls at an educational institution, the **athlete agent** shall notify the athletic director of the **educational institution** of the existence of the **agency contract** not later

than 72 hours after the agent knew or should have known the student athlete enrolled.

Staff Note: Subsection (d) is new.

(e) If an athlete agent has a relationship with a student athlete before the student athlete enrolls in an educational institution and receives an athletic scholarship from the educational institution, the athlete agent shall notify the educational institution of the relationship not later than 10 days after the enrollment if the athlete agent knows or should have known of the enrollment ~~and:~~ and any of the following has occurred:

(1) The relationship was motivated in whole or part by the intention of the athlete agent to recruit or solicit the student athlete to enter an agency contract in the ~~future; or future.~~

(2) The athlete agent directly or indirectly recruited or solicited the student athlete to enter an agency contract before the enrollment.

Staff Note: Subsection (e) is new.

(f) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the athlete agent communicates or attempts to communicate ~~with:~~ with any of the following:

(1) The student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, to influence the student athlete or parent or guardian to enter into an agency ~~contract; or contract.~~

(2) Another individual to have that individual influence the student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete to enter into an agency contract.

Staff Note: Subsection (f) is new.

(g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the student athlete, the athlete agent shall notify in a record the athletic director of any educational institution at which the student athlete is enrolled. The notification must be made not later than 10 days after the communication or attempt.

Staff Note: Subsection (g) is new.

(g1) An athlete agent shall, within 72 hours, give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled if the athlete agent violates or becomes aware that someone affiliated with the athlete agent violates or may have violated G.S. 78C-124.

(h) An educational institution that becomes aware of a violation of this Article by an athlete agent shall notify the ~~{Secretary of State}~~ ~~{Commission}~~ and any professional league or players association with which the educational institution is aware the athlete agent is licensed or registered of the violation.

Staff Note: Subsection (h) is new.

"§ 78C-122. Student athlete's right to cancel.

(a) A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the agency contract is signed.

(b) A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may not waive the right to cancel an agency contract.

(c) If a student athlete, parent, or guardian cancels an agency contract, the student athlete, parent, or guardian is not required to pay any consideration under the agency contract or

return any consideration received from the athlete agent to influence the **student athlete** to enter into the **agency contract**.

Staff Note: § 78C-122 is comparable to G.S. 78C-96 in giving a student athlete the right to cancel an agency contract within 14 days of signing the contract. The right may not be waived, and the athlete is not required to pay any consideration under the contract or return any consideration received from the agent to influence the athlete to enter into the contract.

Unlike G.S. 78C-96, § 78C-122 provides that, if the student athlete is a minor, the parent or guardian of the athlete has a right to cancel the agency contract, may not waive the right, and is not required to pay any consideration under the contract or return any consideration received.

"§ 78C-123. Required records.

(a) An athlete agent shall create and retain for five years records of **all** the following:

(1) The name and address of each individual represented by the **agent; athlete agent**.

(2) Each agency contract entered into by the **agent; and athlete agent**.

(3) The direct costs incurred by the **athlete agent** in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Records described in subsection (a) of this section are open to inspection by the ~~Secretary of State~~ ~~Commission~~ during normal business hours.

Staff Note: § 78C-123 is comparable to G.S. 78C-97 in requiring an athlete agent to create and retain for five years records of specified information which must be open to inspection by the enforcement agency during normal business hours. However, G.S. 78C-97 also provides that the student athlete is deemed to waive the attorney-client privilege with respect to the records retained by the agent, subject to G.S. 78C-94(f). Also, there are stylistic differences between the two sections.

"§ 78C-124. Prohibited conduct.

(a) An athlete agent, with the intent to influence a student athlete or, if the **student athlete** is a minor, a parent or guardian of the **student athlete** to enter into an agency contract, **may shall not** take any of the following actions or encourage any other individual to take or assist

any other individual in taking any of the following actions on behalf of the athlete agent:

(1) Give materially false or misleading information or make a materially false promise or ~~representation~~; representation.

(2) Furnish anything of value to ~~the athlete before the athlete enters into the contract; or a student athlete.~~

(3) Furnish anything of value to an individual other than the student athlete or another registered athlete agent.

(b) Unless registered under this Article, an athlete agent shall not intentionally [or recklessly] (i) initiate contact, directly or indirectly, with a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, to recruit or solicit the student athlete, parent, or guardian to enter an agency contract or (ii) encourage any other individual to do so on behalf of the athlete agent.

(c) An athlete agent ~~may shall not~~ intentionally [or recklessly] do any of the following or encourage any other individual to do any of the following on behalf of the athlete agent:

~~(1) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless registered under this [act];~~

~~(2)(1)~~ Fail to create or retain or to permit inspection of the records required by ~~Section 13~~; G.S. 78C-123.

~~(3)(2)~~ Fail to register when required by ~~Section 4~~; G.S. 78C-114.

~~(4)(3)~~ Provide materially false or misleading information in an application for

registration or renewal of ~~registration~~; registration.

~~(5)(4)~~ Predate or postdate an agency ~~contract~~; or contract.

~~(6)(5)~~ Fail to notify a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, before the student athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the student athlete ineligible to participate as a student athlete in that sport.

(6) Fail to notify the athletic director of an educational institution when required to do so G.S. 78C-121.

Staff Note: § 78C-124 is comparable to G.S. 78C-98 in describing the conduct which gives rise to criminal penalties and civil liabilities. However, § 78C-124 adds language to reflect the rare circumstance of when an agency contract involves a student athlete who is a minor. § 78C-124 also prohibits an athlete agent from encouraging any other individual to take or assist another individual in taking any of the prohibited conduct on behalf of the agent.

"§ 78C-125. Criminal penalty.

An athlete agent who violates ~~Section 14~~ any provision under G.S. 78C-124(a) or (b) is guilty of a ~~[misdemeanor] [felony] and, on conviction, is punishable by [—].~~ Class I felony. An athlete agent who violates any provision under G.S. 78C-124(c) is guilty of a Class misdemeanor.

Staff Note: § 78C-125, like G.S. 78C-99, establishes the criminal penalty which may be imposed for prohibited conduct. However, G.S. 78C-99 reads: "An athlete agent who violates any provision under G.S. 78C-98(a) is guilty of a Class I felony." G.S. 78C-99 imposes the criminal penalty only for conduct prohibited by subsection (a) of the section.

Uniform Law Commission Legislative Note: Each state should determine the penalties to be imposed for a violation of the act. A state may wish to include a suspension or revocation of the registration as a part of the penalty and also may wish to dedicate all or a part of any fine to the enforcement of the act (see, for example, Section 18897.93, California Business and Professions Code).

"§ 78C-126. Civil remedy.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the educational institution or student athlete is adversely affected by an act or omission of the athlete agent in violation of this Article. An educational institution or student athlete is adversely affected by an act or omission of the athlete agent only if, because of the act or omission, the educational institution or an individual who was a student athlete at the time of the act or omission and enrolled in the educational institution:

(1) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) Suffers financial damage.

~~(b) — A plaintiff that prevails in an action under this section may recover [actual damages] [treble damages] [,] [punitive damages,] [and] costs[, and reasonable attorney's fees].~~
~~An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.~~

~~[(c) — A violation of this Article is an [unfair trade or deceptive practice] for purposes of [insert reference to state's unfair trade practices law].]~~

~~(b) A violation of this Article is an unfair trade or deceptive practice for purposes of Chapter 75 of the General Statutes.~~

~~(c) A plaintiff that prevails in an action under this section may recover actual damages and costs and any other damages provided under Chapter 75 of the General Statutes.~~

An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the athlete agent by or on behalf of the student athlete.

Staff Note: § 78C-126 differs from G.S. 78C-100 in establishing a civil remedy for engaging in prohibited conduct. Under G.S. 78C-100, an educational institution has a right of action against an athlete agent or a former student athlete for damages caused by prohibited conduct. § 78C-126 removes the cause of action against a former student athlete and gives a student athlete a cause of action against the athlete agent. The bracketed § 78C-126(c) has no counterpart in G.S. 78C-100.

Uniform Law Commission Legislative Note: If a state has a law that prohibits unfair or deceptive trade practices and provides for civil enforcement by a state agency or persons, including competitors, injured by the practice, the appropriate name for the practice and statutory citation to the applicable law should replace the bracketed language. The drafting rules in some states prohibit what is an amendment by reference and may require the unfair or deceptive trade practices act be amended. In that case, the bill should contain an appropriate amendment of the specific law and subsection (c) should be deleted. Similarly, if a state does not have an unfair or deceptive trade practices law, subsection (c) should be deleted or substantially expanded to provide for civil enforcement by a state agency, affected members of the public, and competitors.

"§ 78C-127. Civil penalty.

The ~~{Secretary of State}~~ ~~{Commission}~~ may assess a civil penalty against an athlete agent not to exceed two hundred fifty thousand dollars (\$250,000) for a violation of this Article.

The clear proceeds of civil penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

Staff Note: § 78C-127 is comparable to G.S. 78C-101 in authorizing the enforcement agency to assess a civil penalty against an athlete agent for engaging in prohibited conduct. G.S. 78C-101 provides that the Secretary of State may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of the Article. § 78C-127 suggests the bracketed amount of \$50,000.

~~["§ 78C-128. Interstate Compact for Registration of Athlete Agents.~~

~~(a) In enacting this Article, this State adopts the Interstate Compact for Registration~~

~~of Athlete Agents and agrees to participate with other states enacting those provisions in maintaining the Commission on Interstate Registration of Athlete Agents.~~

~~(b) Once effective, the compact continues in force and, except as otherwise provided in subsection (c) of this section, remains binding on each member state.~~

~~(c) A member state may withdraw from the compact by repealing the portions of the statute that enacted the compact into law. The withdrawal may not take effect until one year after the effective date of the statute that repeals the portions of the statute that enacted the compact into law and until written notice of the withdrawal has been given by the Governor and Secretary of State of the withdrawing state to the Governor and Secretary of State of each member state.~~

~~(d) A member state immediately shall notify the executive director of the Commission in a record of the introduction of legislation to repeal the compact in the member state. Not later than 60 days after receipt of the notice, the executive director shall notify other member states of the introduction of the legislation.~~

~~(e) A state withdrawing from the compact under subsection (c) of this section is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extend beyond the effective date of withdrawal.~~

~~(f) The compact is dissolved effective on the date of the withdrawal of the member state that reduces the membership in the compact to fewer than five states. On dissolution, the compact has no further effect, and the affairs of the Commission must be concluded and assets distributed in accordance with the Commission's bylaws.]~~

Staff Note: Bracketed § 78C-128 is the part of Alternative B which formally creates the Interstate Compact on Registration of Athlete Agents and provides the procedure for a state that

has entered into the Compact to withdraw from the Compact. The section allows a state to adopt the Compact and to agree to participate with other states adopting the Compact in maintaining the Commission on Interstate Registration of Athlete Agents. The section also provides the procedure for a state that has entered into the Compact to withdraw from the Compact, that is, by repealing the provisions that enacted the Compact into law. The withdrawal does not take effect until one year after the effective date of the repeal and until written notice of the withdrawal has been given by the governor and secretary of state of the withdrawing state to the governor and secretary of state of each member state.

"§ 78C-129. Uniformity of application and construction.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Staff Note: § 78C-129 is comparable to G.S. 78C-102 and is a standard provision in uniform acts.

"§ 78C-130. Relation to Electronic Signatures in Global and National Commerce Act.

This Article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

Staff Note: § 78C-130 is comparable to G.S. 78C-103 and is a standard provision in uniform acts that responds to specific language of the Electronic Signatures in Global and National Commerce Act and is designed to avoid preemption of State law under that federal statute.

~~**[SECTION 21. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]**~~

Staff Note: This severability provision is set out as an uncodified provision in Section 3 of this draft.

Uniform Law Commission Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

1
2 **SECTION 3.** If any provision of this act or its application to any person or circumstance
3 is held invalid, the invalidity does not affect other provisions or applications of this act which
4 can be given effect without the invalid provision or application, and to this end the provisions of
5 this act are severable.

6 *Staff Note: Section 3, like G.S. 78C-104, is a standard severability provision.*

7 **SECTION 4.** The Revisor of Statutes shall cause to be printed, as annotations to the
8 published General Statutes, all relevant portions of the Official Comments to the Revised
9 Uniform Athlete Agents Act (2015) and all explanatory comments of the drafters of this act as
10 the Revisor may deem appropriate.

11 *Staff Note: Section 4 authorizes the printing of official comments and drafters comments.*
12

13 **SECTION 5.** This act becomes effective December 1, 2017, and applies [to acts and
14 omissions occurring on or after that date.] Prosecutions for offenses committed before the
15 effective date of this act are not abated or affected by this act, and the statutes that would be
16 applicable but for this act remain applicable to those prosecutions.